

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Ethics and Elections

BILL: CS/SB 524

INTRODUCER: Ethics and Elections Committee and Senator Hutson

SUBJECT: Elections

DATE: February 2, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Biehl	Roberts	EE	Fav/CS
2.			CA	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 524 makes the following changes to the Election Code:

- Creates the Office of Election Crimes and Security within the Department of State and revises requirements for special officers who may investigate election law violations;
- Expands the prohibition against use of private donations for election-related expenses to apply to any kind of expense, including but not limited to the costs of related litigation;
- Increases the amount of total fines that may be assessed against a third-party voter registration organization within a calendar year;
- Increases the frequency with which voter registration list maintenance must be conducted and creates additional requirements for related information that must be provided to the Department of State;
- Effective January 1, 2024, requires voters returning a vote-by-mail ballot to include on the Voter's Certificate one of specified identifying numbers, requires a third envelope to be used in which the certificate envelope will be enclosed, and conforms canvassing provisions;
- Expands a criminal penalty for early disclosure of election results and requires authorized observers of vote-by-mail ballot duplication to sign an affidavit acknowledging they are subject to the penalty;
- Prohibits the use of ranked-choice voting in any election in the state and preempts any conflicting local ordinances;
- Revises retention, maintenance, and information posting requirements for citizens' initiative petition signature forms;

- Increases criminal penalties for ballot harvesting and crimes related to ballot petition signatures; and
- Requires the Department of State to make specified reports regarding investigations of election law violations and a plan to obtain an identifying number from voters who do not have one on file.

Except as otherwise provided in the bill, the bill takes effect upon becoming a law.

II. Present Situation:

Please see “Effect of Proposed Changes.”

III. Effect of Proposed Changes:

Investigations of Violations of Election Laws (Sections 1, 20, and 21)

Present Situation

Current law vests jurisdiction to investigate and determine violations of chs. 104 and 106, F.S., in the Florida Elections Commission, but does not limit the jurisdiction of any other officers or agencies of government empowered by law to investigate, act upon, or dispose of alleged violations of the Election Code.¹

In addition, the Secretary of State’s duties include:

- Maintaining a voter fraud hotline; and
- Conducting preliminary investigations into any irregularities or fraud involving voter registration, voting, candidate petition, or issue petition activities and reporting his or her findings to the statewide prosecutor or relevant state attorney, if warranted.²

Current law also authorizes the governor to appoint special officers to investigate alleged violations of election laws, when it is deemed necessary to see that violators of election laws are apprehended and punished.³ In addition, the sheriff must exercise vigilance in the detection of any violations of the election laws and in apprehending the violators.

Effect of Proposed Changes

The bill creates an Office of Election Crimes and Security (office) within the Department of State (DOS) to aid the Secretary of State in completion of his or her existing duties by:

- Receiving and reviewing notices and reports generated by government officials or any other person regarding alleged occurrences of election law violations or election irregularities;
- Initiating independent inquiries and conducting preliminary investigations into allegations of election law violations or election irregularities; and
- Overseeing the voter fraud hotline.

¹ Section 106.25(1), F.S.

² Sections 97.021(12) and (15), F.S.

³ Section 102.091, F.S.

The bill provides that the office shall:

- Have a director appointed by the Secretary of State;
- Be based in Tallahassee;
- Employ nonsworn investigators to conduct any investigations;
- Obtain any positions and resources necessary to accomplish its duties via the legislative appropriations process.

The bill specifies that its provisions do not limit the jurisdiction of any other office or agency of the state empowered by law to investigate, act upon, or dispose of alleged election law violations.

Regarding special officers, the bill:

- Requires the governor to, in consultation with the executive director of the Florida Department of Law Enforcement (FDLE), appoint special officers to investigate alleged violations of election laws.
- Requires a special officer to be a sworn special agent employed by the FDLE and specifies that at least one special officer in each operational region of the FDLE must be dedicated to the investigation of election laws.
- Provides that appointment as a special officer does not preclude a sworn special agent from conducting other investigations as long as such other investigations do not hinder or interfere with investigations of alleged violations of election laws.
- Adds special officers to the existing list of law enforcement officials who are prohibited from entering a polling place without permission from the clerk or a majority of the inspectors.⁴

The bill requires the DOS to annually report to the governor, the Senate President, and the House Speaker the following information related to investigations of alleged election law violations or election irregularities:

- The total number of complaints received and independent investigations initiated and the number referred to another agency for further investigation or prosecution, including the total of those sent to a special officer.
- For each violation or irregularity investigated, the source of the alleged violation or irregularity; the law allegedly violated or the nature of the irregularity reported; the county in which it occurred; whether it was referred to another agency for further investigation or prosecution, and if so, to which agency; and the current status of the investigation or resulting criminal case.

Prohibition on Use of Private Donations for Election Administration Expenses (Section 2)

Present Situation

Current law prohibits an agency or state or local official responsible for conducting elections from soliciting, accepting, or using any donation from an individual or nongovernmental entity for the purpose of funding election-related expenses or voter education, outreach, or registration programs.⁵

⁴ See s. 102.101, F.S.

⁵ Section 97.0291, F.S.

Effect of Proposed Changes

The bill expands the prohibition to apply to any type of election administration-related expense, specifically including, but not limited to, the cost of any related litigation.

Fines Imposed on Third-Party Voter Registration Organizations (Section 4)

Present Situation

A third-party voter registration organization is any person, entity, or organization soliciting or collecting voter registration applications, but does not include:

- A person who seeks only to register to vote or collect a voter registration application from that person's spouse, child, or parent; or
- A person engaged in registering to vote or collecting voter registration applications as an employee or agent of the Division of Elections within the DOS, supervisor of elections (supervisor), Department of Highway Safety and Motor Vehicles (DHSMV), or a voter registration agency^{6,7}

An organization that collects voter registration applications must deliver each application to the Division of Elections or the supervisor in the county in which the applicant resides within 14 days after the application was completed by the applicant, but not after registration closes for the next ensuing election.⁸ If an organization fails to meet the deadline, it is liable for specified fines. The aggregate fine which may be assessed against an organization, including affiliate organizations, for violations committed in a calendar year is \$1,000.⁹

Effect of Proposed Changes

The bill increases the calendar-year fine cap to \$50,000.

Voter Registration List Maintenance (Sections 5, 6, 7, and 8)

Present Situation

Current law requires each supervisor to conduct a general voter registration list maintenance program (program) to ensure accurate and current voter registration records.¹⁰ Each program must be conducted, at a minimum, in each odd-numbered year and must be completed no later than 90 days prior to the start of any federal election,¹¹ as required by the National Voter Registration Act.

Each supervisor must incorporate in the program one or more of the following options for identifying change-of-address information:

- Information supplied by the U.S. Postal Service;
- Information identified from returned nonforwardable return-if-undeliverable mail sent to all registered voters in the county; or

⁶ A voter registration agency is any office that provides public assistance, any office that serves persons with disabilities, any center for independent living, or any public library (s. 97.021(44), F.S.).

⁷ Section 97.021(40), F.S.

⁸ Section 97.0575(3)(a), F.S. The \$1,000 cap was established in 2007 (s. 2, ch. 2007-30, Laws of Fla.).

⁹ *Id.*

¹⁰ Section 98.065(1), F.S.

¹¹ Section 98.065(3), F.S.

- Information identified from returned nonforwardable return-if-undeliverable address confirmation requests¹² mailed to all registered voters who have not voted in the last two years and who did not make a written request that their registration records be updated during that time.¹³

Current law also requires the DOS to engage in list maintenance activities to ensure the maintenance of accurate and current voter registration records.¹⁴ In part, those activities must include identifying registered voters who are deceased by comparing information received from either:

- The Department of Health (DOH); or
- The U.S. Social Security Administration.¹⁵

Certain officials are required to provide specified information to the DOS for its use in voter list maintenance activities.¹⁶

A recent operational audit of the DOS relating to voting systems standards and certification, voter registration records maintenance, selected administrative activities, and prior audit follow-up included the following findings:

- DOS controls over voter registration records maintenance need enhancement to better identify duplicate registrations and registrations for deceased voters and convicted felons, and to ensure that potential voter registration record errors are appropriately investigated and corrected.
- DOS controls for ensuring that persons who register or preregister to vote satisfy statutory age requirements need improvement.
- DOS records did not always evidence the timely receipt of forms from supervisors certifying that voter address and voter registration records maintenance activities were conducted in accordance with state law.¹⁷

Effect of Proposed Changes

The bill increases the frequency with which each supervisor must conduct a program to at least once every year, beginning in January 2023. It further requires each supervisor to:

- At least once each even-numbered year, use change-of-address information from the U.S. Postal Service to update voter address information;
- At least once each odd-numbered year, send to all registered voters in the county nonforwardable return-if-undeliverable mail that requests address confirmation and solicits a

¹² The address confirmation request is a form prescribed by the Department of State that must include the voter's name and address of legal residence as shown on the voter registration record and a request that the voter notify the supervisor if either the voter's name or address of legal residence is incorrect (s. 98.0655, F.S.). "Address of legal residence" means the legal residential address of the elector and includes all information necessary to differentiate one residence from another, including, but not limited to, a distinguishing apartment, suite, lot, room, or dormitory room number or other identifier (s. 97.021(3), F.S.).

¹³ Section 98.065(2), F.S.

¹⁴ Section 98.075(1), F.S.

¹⁵ Section 98.075(3), F.S.

¹⁶ Section 98.093, F.S.

¹⁷ State of Florida Operational Audit of Department of State, January 2021, available at https://flauditor.gov/pages/pdf_files/2021-096.pdf (last viewed February 2, 2022).

- Florida driver license number, Florida identification card number, and the last four digits of the social security number of each voter who does not have one such number on file; and
- At the supervisor’s discretion, identify change-of-address information from returned nonforwardable return-if-undeliverable address confirmation requests mailed to all registered voters who have not voted in the last two years and who did not make a written request that their registration records be updated during that time.

The bill specifies procedures to be followed regarding which addresses should be used in the conducting of program activities.

The bill revises requirements for the address confirmation request form to require it to additionally include a voter registration application and a notice regarding penalties for submitting false voter registration information and requires the DOS to create a new identifying number solicitation form for use in requesting such a number for each voter who does not have one on file.

The bill also requires the DOS to compare information regarding deceased voters from both the DOH and the U.S. Social Security Administration and adds the DHSMV as an agency with which the DOS must compare information.¹⁸

Relating to duties of officials to furnish information to the DOS, the bill requires:

- Each clerk of court to monthly report to the DOS information on the terms of sentence, including any financial obligations, of all persons listed in the clerk’s records who reside within this state and have been convicted of a felony.
- The DHSMV to monthly report to the DOS specified information pertaining to persons who presented evidence of non-U.S. citizenship upon being issued a new or renewed Florida driver license or Florida identification card.¹⁹

Vote-by-Mail Ballots (Sections 11, 14, 16, 23, 25, and 26)

Present Situation

Florida law allows an elector to request a vote-by-mail (VBM) ballot to be used in lieu of voting at the polls during early voting or on Election Day. An elector does not need to provide a reason for a VBM ballot request.

¹⁸ The federal Drivers Privacy Protection Act (DPPA) protects personal information collected by state departments of motor vehicles and held in motor vehicle records (18 U.S. Code s. 2721). The DPPA defines “personal information” to mean information that identifies an individual, including an individual’s photograph, social security number, driver identification number, name, address (but not the 5-digit zip code), telephone number, and medical or disability information. “Motor vehicle record” means any record that pertains to a motor vehicle operator’s permit, motor vehicle title, motor vehicle registration, or identification card issued by a department of motor vehicles. The DPPA specifies permissible uses of protected personal information, including, but not limited to, use by any government agency in carrying out its functions.

¹⁹ Specifically, the bill requires that the DHSMV report for each person his or her name; address; date of birth; social security number, if applicable; and Florida driver license number or Florida identification card number. Social security numbers held by an agency are confidential and exempt from public-records disclosure requirements, but may be disclosed if expressly required by state law (s. 119.071(5)(a)5., F.S.). Also, see discussion of the DPPA in footnote 18.

Any person who distributes, orders, requests, collects, delivers, or otherwise physically possesses more than two VBM ballots per election in addition to his or her own ballot or a ballot belonging to an immediate family members commits a first-degree felony.²⁰

Current law requires a supervisor to enclose with each mailed VBM ballot two envelopes:

- A secrecy envelope, into which the absent elector shall enclose his or her marked ballot; and
- A mailing envelope, into which the absent elector shall then place the secrecy envelope.²¹

The mailing envelope in which an absent elector sends back a marked VBM ballot must bear on the back side a Voter's Certificate via which the elector must affirm with a signature that he or she is a qualified and registered voter of the relevant county and that he or she has not and will not vote more than one ballot in the election.²² The Voter's Certificate also contains spaces for each voter to provide his or her email address and telephone numbers and the date the certificate was signed.

When returned VBM ballots are being counted, a duplicate must be made and substituted for any ballot:

- That is physically damaged so that it cannot properly be tabulated by the voting system's automatic tabulating equipment;
- That contains an overvoted race; or
- In which every race is undervoted.²³

The duplicate copies must be made in the presence of witnesses and include all valid votes as determined by the canvassing board based on rules adopted by the division. Upon request, a physically present candidate, a political party official, a political committee official, or an authorized designee thereof must be allowed to observe the duplication of ballots.²⁴

If an elector returns a VBM ballot that does not include a signature or contains a signature that does not match the one in the registration books or precinct register, the supervisor must notify the elector of the signature deficiency and direct the elector to the cure affidavit²⁵ and instructions on the supervisor's website.²⁶ Along with the cure affidavit, the elector must submit a copy of one of a specified list of acceptable identifications.²⁷

During canvassing of VBM ballots, a canvassing board must, if the supervisor has not already done so, compare the elector's signature on the voter's certificate or the ballot cure affidavit with the elector's signature in the registration books or the precinct register. A VBM ballot may only be counted if:

²⁰ Section 104.0616(2), F.S. "Immediate family" means a person's spouse or the parent, child, grandparent, grandchild, or sibling of the person or the person's spouse (s. 104.0616(1), F.S.).

²¹ Section 101.64(1), F.S.

²² Section 101.64(1), F.S.

²³ Section 101.5614(4)(a), F.S.

²⁴ *Id.*

²⁵ The VBM ballot cure affidavit requires the elector to affirm with a signature that he or she requested and returned the VBM ballot and has not and will not vote more than one ballot in the election (s. 101.68(4)(c), F.S.).

²⁶ Section 101.68(4)(a), F.S. The supervisor may make the notification via email, text message, or telephone.

²⁷ Section 101.68(4)(d)3., F.S.

- The signature on the voter’s certificate or the cure affidavit matches the signature in the registration books or precinct register;²⁸ or
- The cure affidavit contains a signature that does not match the signature in the registration books or precinct register, but the elector has submitted a current and valid “Tier 1 identification”²⁹ that confirms the identity of the elector.³⁰

It is a third-degree felony for any supervisor, deputy supervisor, canvassing board member, election board member, or election employee to release the results of any election before the closing of the polls in that county on election day.³¹

Effect of Proposed Changes

Effective January 1, 2024, the bill requires an elector voting via VBM ballot to include on the Voter’s Certificate the last four digits of his or her Florida driver license number or Florida identification card number, or, if he or she has neither, the last four digits of his or her social security number. To protect the identifying number, the bill requires an additional mailing envelope to be provided within which the certificate envelope will be enclosed.

The bill revises VBM ballot canvassing processes to incorporate the requirement that a voter include an identifying number on the Voter’s Certificate.

The bill requires the DOS to submit to the Senate President and the House Speaker by January 1, 2023, a report detailing a plan to obtain a Florida driver license number or Florida identification card number and the last four digits of the social security number from each registered voter who does not have any such number on file in the Florida Voter Registration System. The plan must include, if needed, details on any funding that may be required for its completion, and must plan for its completion by December 31, 2023.

The bill increases the criminal penalty for “ballot harvesting” to a third-degree felony and specifies that it is a Level 1 offense.³²

The bill expands the existing criminal penalty for release of election results prior to poll closing to:

- Include any person authorized to observe, review or inspect ballot materials or observe canvassing; and

²⁸ In the case of a cure affidavit, the supporting identification must also confirm the identity of the elector.

²⁹ “Tier 1 identification” means a current and valid identification that includes the elector’s name and photograph, including a Florida driver license; Florida identification card issued by the Department of Highway Safety and Motor Vehicles; United States passport; debit or credit card; military identification; student identification; retirement center identification; neighborhood association identification; public assistance identification; veteran health identification card issued by the United States Department of Veterans Affairs; Florida license to carry a concealed weapon or firearm; of employee identification card issued by any branch, department, agency, or entity of the federal government, the state, a county, or a municipality (s. 101.68(4)(d)2., F.S.).

³⁰ Section 101.68(2)(c)1., F.S.

³¹ Section 101.5614(8), F.S.

³² “Level 1” is the least severe offense level in the offense severity ranking chart, which is used in conjunction with the Criminal Punishment Code worksheet to compute a sentence score for felony offenders (s. 921.0022(1) and (2), F.S.). Florida Rule of Criminal Procedure 3.704(c)(2) provides that all third-degree felonies are Level 1 offenses unless otherwise specified.

- Also prohibit the release of any information about votes cast for or against any candidate or ballot measure.

The bill also requires each authorized observer of VBM ballot duplication to sign an affidavit affirming his or her acknowledgment that disclosure of election results discerned from observing the ballot duplication process while the election is ongoing is a felony.

Use of Ranked-Choice Voting (Section 10)

Present Situation

In a ranked-choice voting system (RCV), voters rank all the candidates for a given office by their preference. Ballots are tabulated in multiple rounds following the elimination of a candidate until a single candidate attains a majority.³³

Alaska and Maine are the only states in the country to have established the use of RCV for all congressional and state elections. A number of cities across the United States also use the method for municipal elections.³⁴

Florida statutes do not specifically address the use of RCV. They require state elections to be decided by winner-takes-all primary and general elections³⁵ but provide no such specification for local elections. Sarasota County voters approved RCV in a 2007 referendum, but the method has not been implemented due to concerns about voting systems and legality.³⁶ The City of Clearwater considered holding an RCV referendum but decided against it because the city would not be able to implement the system unless the state recognized it as a legal method.³⁷

Statutorily required audits³⁸ and currently authorized voting systems³⁹ may not accommodate the use of ranked-choice voting in the state.

³³ “Ranked-Choice Voting,” National Conference of State Legislatures, <https://www.ncsl.org/research/elections-and-campaigns/ranked-choice-voting636934215.aspx> (last viewed January 19, 2022).

³⁴ *Id.*

³⁵ See ss. 100.061 and 100.181, F.S. In this method, also known as plurality voting, voters select one candidate per race on a ballot and the candidate that receives the most votes wins.

³⁶ “Sarasota City Commission may pause plan for advancing ranked-choice voting,” Sarasota Herald-Tribune, <https://www.heraldtribune.com/story/news/politics/elections/local/2021/09/22/sarasota-file-suit-determine-if-can-pursue-ranked-choice-voting/5796054001/> (last viewed January 24, 2022).

³⁷ “Clearwater drops ranked choice voting referendum,” Tampa Bay Times, <https://www.tampabay.com/news/clearwater/2021/10/08/clearwater-drops-ranked-choice-voting-referendum/> (last viewed January 24, 2022).

³⁸ Current law requires two post-election reports: 1) immediately after certification of each election, the county canvassing board or the local board responsible for certifying the election must conduct a manual audit or an automated, independent audit of the voting systems used in randomly selected precincts; and 2) at the end of each general election year, the supervisor of elections in each county must report the total number of overvotes and undervotes for specified races (ss. 101.591 and 101.595, F.S.).

³⁹ The Department of State must examine and certify a voting system before it can be used in an election (s. 101.5605, F.S.). A voting system may only be approved by the department if it meets specified criteria (s. 101.5606, F.S.).

Effect of Proposed Changes

The bill:

- Prohibits the use of a ranked-choice voting method from being used in determining the election or the nomination of any candidate to any local, state, or federal office in this state.
- Provides that any existing or future ordinance enacted by a local governmental entity which is in conflict with the prohibition against ranked-choice voting is void.

Citizens' Initiatives (Section 9)Present Situation

The Florida Constitution provides citizens the right to propose constitutional amendments through an initiative petition process.⁴⁰ The process includes the following signature requirements:

- The total number of signatures must be equal to at least eight percent of the number of voters in the last presidential election.
- The signatures must come from voters in at least one-half of the congressional districts of the state.⁴¹

The steps in the citizens' initiative petition process are as follows:

- The individual or group wishing to propose an amendment must register as a political committee with the Division of Elections (Division) within the DOS.⁴²
- The sponsoring political committee must submit its initiative petition form to the Division for approval of its format.⁴³
- After the Division approves the format of a petition form, the Division assigns a serial number to the initiative petition.⁴⁴
- After assignment of a serial number, the sponsoring political committee may begin circulating petitions for signature by registered Florida voters.⁴⁵
- Each signed initiative petition form must be submitted by the sponsoring political committee to the supervisor's office in the county of residence of the signee for signature verification.⁴⁶
- When the sponsoring political committee has obtained specified thresholds for verified signatures,⁴⁷ the Secretary of State (Secretary) sends the petition to the Attorney General,⁴⁸ who must within 30 days of receipt petition the Florida Supreme Court (Court) for an advisory opinion as to whether the text of the proposed amendment complies with state constitutional requirements⁴⁹, whether the proposed amendment is facially invalid under the

⁴⁰ FLA. CONST. art. XI, s. 3.

⁴¹ FLA. CONST. art. XI, s. 3.

⁴² Section 100.371(2), F.S.

⁴³ Rule 1S-2.009 (Constitutional Amendment by Initiative Petition), F.A.C.

⁴⁴ *Id.*

⁴⁵ *See id.* and s. 100.371(2), F.S.

⁴⁶ Section 100.371(11)(a), F.S. Each signature must be verified by the relevant supervisor of elections. The sponsoring political committee must pay the actual cost of verification to the supervisor of elections.

⁴⁷ The verified signatures on petitions must be equal to at least 25% of the number of signatures required statewide and in at least one-half of Florida's congressional districts.

⁴⁸ Section 15.21, F.S.

⁴⁹ FLA. CONST. art. XI, s. 3, in part limits citizens' initiatives (except those limiting the power of government to raise revenue) to a single subject.

United States Constitution, and whether the proposed ballot title and substance comply with statutory requirements⁵⁰.⁵¹ The Secretary concurrently sends a copy of the petition to the Financial Impact Estimating Conference, which completes and submits to the Court a financial impact statement for the proposed amendment.⁵²

- By February 1 of the year of the general election, the Secretary determines whether the required number and distribution of signatures has been met.⁵³ If so, the Secretary issues a certificate of ballot position to the sponsoring political committee.⁵⁴ No later than the next day, the Division director assigns the designated number for the proposed amendment.⁵⁵

For each initiative, each supervisor must retain signature forms for at least one year following the election in which the issue appeared on the ballot or until the Division of Elections notifies the supervisors that the committee that circulated the petition is no longer seeking to obtain ballot position.⁵⁶

Each supervisor must post on his or her website the aggregate number of verified valid signatures and the distribution of such signatures by congressional district for each amendment proposed by initiative, along with certain information specific to the reporting period.⁵⁷

Effect of Proposed Changes

The bill:

- Requires each supervisor to separate valid and invalid signature forms.
- Revises the signature form retention period to at least one year following the election for which the issue was circulated.
- Requires supervisors to provide a method of viewing and copying⁵⁸ valid and invalid forms.
- Adds to website posting requirements the following information for each initiative – total number of signatures submitted, total number of invalid signatures, and total number of signatures processed.

⁵⁰ Section 101.161, F.S., provides format and content requirements for ballot titles and summaries. The ballot summary must be an explanatory statement, not exceeding 75 words in length, of the chief purpose of the measure. The ballot title must consist of a caption, not exceeding 15 words in length, by which the measure is commonly referred to or spoken of. However, those requirements do not apply to amendments or revisions proposed by joint resolution of the Legislature. All proposals are subject to requirements pertaining to a financial impact statement that must be included in the ballot summary.

⁵¹ Section 16.061(1), F.S.

⁵² Section 100.371(13), F.S.

⁵³ Section 100.371(1), F.S.

⁵⁴ Section 100.371(12), F.S.

⁵⁵ Rule 1S-2.0011 (Constitutional Amendment Ballot Position), F.A.C.

⁵⁶ Section 100.371(11)(a), F.S.

⁵⁷ Section 100.371(11)(c), F.S.

⁵⁸ The signature of a voter registration applicant or a registered voter is exempt from public-records copying requirements pursuant to s. 97.0585(2), F.S.

Penalties Related to Ballot Petitions (Sections 23 and 24)

Present Situation

Current law makes it a first-degree misdemeanor to:

- Sign another person's name or a fictitious name to any petition to secure ballot position for a candidate, a minor political party, or an issue;⁵⁹ and
- To compensate a petition circulator based on number of petition forms gathered.⁶⁰

Effect of Proposed Changes

The bill increases the criminal penalty for each of the offenses to make each a third-degree felony.

Conforming Changes (Sections 3, 12, 13, 15, 17, 18, and 19)

The bill:

- Confirms cross-references;
- Confirms all-mail-ballot election processes to the new three-envelope VBM ballot mailing system and requirement that an identifying number be included in the Voter's Certificate;
- Confirms terminology; and
- Confirms VBM ballot instructions to the new three-envelope VBM mailing system and requirement that an identifying number be included in the Voter's Certificate.

Effective Date of the Bill (Section 27)

Except as otherwise provided in the bill, the bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. Bills that affect state or local elections are exempt from the requirements of Art. VII, section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

⁵⁹ Section 104.185(2), F.S.

⁶⁰ Section 104.186, F.S.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Increasing the cap on the total amount of fines that may be assessed against a third-party voter registration organization in one calendar year will financially impact those organizations that do not comply with timely submission requirements for voter registration applications.

C. Government Sector Impact:

The requirement that certain special officers be dedicated to investigating election law violations and the creation of the new Office of Election Crimes and Security may require funding for additional positions.

The creation of a three-envelope mailing system for VBM ballot envelopes will result in supervisors having to pay for an additional envelope for each VBM ballot.

Increasing the frequency with which voter registration list maintenance must be conducted and requiring mailings regarding identifying numbers will increase supervisor workload and mailing costs. Requiring governmental officials and agencies to report additional information to the DOS for list maintenance purposes may increase workload for those official and agencies.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates sections 97.022 and 101.019 of the Florida Statutes.

This bill substantially amends the following sections of the Florida Statutes: 97.0291, 97.057, 97.0575, 98.065, 98.0655, 98.075, 98.093, 100.371, 101.5614, 101.6104, 101.64, 101.65, 101.68, 101.6921, 101.6923, and 101.6925.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Ethics and Elections on February 1, 2022:

The committee substitute does the following:

- Retains a prohibition against the use of ranked-choice voting that is in the original bill.
- Revises the original bill’s removal of an annual cap on fines against a third-party voter registration organization to instead increase it to \$50,000 from the current \$1,000.
- Removes from the original bill provisions related to candidate disclosures and early voting sites.
- Adds new provisions related to an Office of Election Crimes and Security within the DOS; special officers to investigate election law violations; vote-by-mail procedures; voter registration list maintenance; criminal penalties for early disclosure of election results, ballot harvesting, compensating persons for petition signatures, and signing another person’s name to a petition; signature-gathering for citizens’ initiatives; and DOS reporting requirements.

- B. **Amendments:**

None.